

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1810

Introduced by Assembly Member Levine

February 8, 2016

An act to amend Sections 52288, 52311, 52451, 52452, 52453, and 52486 of, and to add Sections ~~52258.1 and 52258.2~~ 52258.1, 52258.2, and 52453.5 to, the Food and Agricultural Code, relating to seed.

LEGISLATIVE COUNSEL'S DIGEST

AB 1810, as amended, Levine. California Seed Law: exclusions: seed microenterprises and noncommercial seed sharing.

The California Seed Law (the seed law) regulates seed sold in California, and generally requires agricultural and vegetable seed that is sold in the state to be labeled in accordance with specified provisions. Specified penalties are prescribed for violating the provisions of the seed law.

This bill would exclude from the labeling requirements of the seed law seed distributed through noncommercial seed sharing activities, and would also ~~exclude~~ *set forth separate labeling requirements for certain agricultural and vegetable* seed sold by a seed microenterprise, which would be defined as a person or farm that grows and sells up to \$5,000 annually of agricultural, flower, or vegetable seed. The bill would revise applicable penalty provisions to exclude ~~a seed microenterprise that sells only untreated and uncertified seed,~~ and the collection, storage, or distribution of agricultural, flower, or vegetable seed for noncommercial purposes. The bill would also define the term “sell” for purposes of the seed law, and would state that the Legislature

declares that the seed law is not intended to regulate—seed microenterprises or noncommercial seed sharing, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 52258.1 is added to the Food and
2 Agricultural Code, to read:

3 52258.1. “Seed microenterprise” means any person or farm
4 that grows and sells within this state up to five thousand dollars
5 (\$5,000) annually of agricultural, flower, or vegetable seed.

6 SEC. 2. Section 52258.2 is added to the Food and Agricultural
7 Code, to read:

8 52258.2. “Sell” includes to offer, expose, or possess for sale,
9 and to commercially exchange, barter, or trade.

10 SEC. 3. Section 52288 of the Food and Agricultural Code is
11 amended to read:

12 52288. The Legislature hereby declares that it is the intent of
13 this chapter to enable the seed industry, with the aid of the state,
14 to ensure that seed purchased by the consumer-buyer is properly
15 identified and of the quality and amount represented on the tag or
16 label. The Legislature further declares that the success of
17 agriculture and the seed industry in this state depends upon the
18 continued commitment to industry-funded research in order to
19 improve the quality and variety of seed available to the
20 consumer-buyer. The Legislature further declares that this chapter
21 is not intended to regulate seed microenterprises or noncommercial
22 seed sharing, including through seed libraries, seed exchanges, or
23 other informal and formal noncommercial seed sharing activities.

24 SEC. 4. Section 52311 of the Food and Agricultural Code is
25 amended to read:

26 52311. A person is not subject to the penalties that are
27 prescribed by this chapter in any of the following cases:

28 (a) For selling in this state any agricultural or vegetable seed
29 that is incorrectly labeled or represented as to kind, variety, or
30 type, which cannot be identified by examination of it, unless the
31 person has failed to obtain an invoice or grower’s declaration that
32 gives the commonly accepted name of the kind, kind and variety,

1 or kind and type, and to take other precautions as may be necessary
2 to insure the identity to be that which is stated.

3 (b) As to any matter that is required by Article 8 (commencing
4 with Section 52451), for selling the seed in original unopened
5 sealed packages that are fully labeled by another dealer, unless the
6 person has failed to have the seed retested and relabeled as to the
7 percentage of germination within the period that is prescribed by
8 Section 52481, or unless the person has failed to correct the label
9 after notice that the label has been found to be incorrect.

10 (c) For shipping, delivering, transporting, or selling within this
11 state any agricultural or vegetable seed that has a false labeling as
12 to percentage of germination or hard seeds, unless the person has
13 first been given an opportunity by the secretary to be heard. This
14 exemption does not, however, relieve any person from the
15 obligation, upon order of an enforcement official, to stop further
16 sale of any seed that is found to be incorrectly labeled as to
17 germination, nor does it exempt such seed from seizure pursuant
18 to this chapter.

19 ~~(d) For operating a seed microenterprise that sells only untreated~~
20 ~~and uncertified seed.~~

21 (e)

22 (d) For collecting, storing, or distributing in this state any labeled
23 or unlabeled agricultural, flower, or vegetable seed for
24 noncommercial purposes.

25 SEC. 5. Section 52451 of the Food and Agricultural Code is
26 amended to read:

27 52451. This article does not apply to any of the following:

28 (a) Seed or grain that is not intended for sowing purposes.

29 (b) Seed that is in storage in, or consigned to, a seed cleaning
30 or conditioning establishment for cleaning or conditioning.

31 (c) Seed or grain that is transported without transfer of title for
32 sowing on land that is owned by the person by whom the seed or
33 grain was produced.

34 (d) Seed that is weighed and packaged in the presence of the
35 purchaser from a bulk container, if the container is properly and
36 conspicuously labeled as provided by this chapter.

37 (e) Seed or grain that is transported from one warehouse to
38 another without transfer of title or in storage in a warehouse, if
39 each container is plainly marked or identified with a lot number

1 or other lot identification and the label information that is required
2 by this article is available at the request of an enforcing officer.

3 (f) Seed distributed in the state through formal or informal
4 noncommercial seed sharing activities, including, but not limited
5 to, seed libraries and seed exchanges.

6 ~~(g) Seed sold by a seed microenterprise.~~

7 *SEC. 6. Section 52452 of the Food and Agricultural Code is*
8 *amended to read:*

9 52452. (a) Except as otherwise provided in Section ~~52454,~~
10 ~~52453.5 or 52454,~~ each container of agricultural seed that is for
11 sale or sold within this state for sowing purposes, unless the sale
12 is an occasional sale of seed grain by the producer of the seed grain
13 to his or her neighbor for use by the purchaser within the county
14 of production, shall bear upon ~~it~~ *it*, or have attached to ~~it~~ *it*, in a
15 conspicuous place a plainly written or printed label or tag in ~~the~~
16 English language that includes all of the following information:

17 (1) The commonly accepted name of the kind, kind and variety,
18 or kind and type of each agricultural seed component in excess of
19 5 percent of the whole, and the percentage by weight of each. If
20 the aggregate of agricultural seed components, each present in an
21 amount not exceeding 5 percent of the whole, exceeds 10 percent
22 of the whole, each component in excess of 1 percent of the whole
23 shall be named together with the percentage by weight of each. If
24 more than one component is required to be named, the names of
25 all components shall be shown in letters of the same type and size.

26 (2) The lot number or other lot identification.

27 (3) The percentage by weight of all weed seeds.

28 (4) The name and approximate number of each kind of restricted
29 noxious weed seed per pound.

30 (5) The percentage by weight of any agricultural seed except
31 that which is required to be named on the label.

32 (6) The percentage by weight of inert matter. If a percentage
33 by weight is required to be shown by any provision of this section,
34 that percentage shall be exclusive of any substance that is added
35 to the seed as a coating and shown on the label as such.

36 (7) For each agricultural seed in excess of 5 percent of the
37 whole, stated in accordance with paragraph (1), the percentage of
38 germination exclusive of hard seed, the percentage of hard seed,
39 if present, and the calendar month and year the test was completed
40 to determine the percentages. Following the statement of those

percentages, the additional statement “total germination and hard seed” may be stated.

(8) The name and address of the person who labeled the seed or of the person who sells the seed within this state.

(b) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the regulations that are adopted pursuant to this chapter.

(c) For purposes of this section, “neighbor” means a person who lives in close proximity, not to exceed three miles, to another.

SEC. 7. Section 52453 of the Food and Agricultural Code is amended to read:

52453. Except as otherwise provided in Section ~~52454~~, 52453.5 or 52454, each container of vegetable seed that is for sale or sold within this state for sowing purposes shall bear upon it, or have attached to it, in a conspicuous ~~place~~, *place* a plainly written or printed label or tag in the English ~~language~~, that gives all of the following information:

(a) Name of kind and variety of seed.

(b) For any seed that germinates less than the standard last established by the secretary under this chapter, the percentage of germination, exclusive of hard seed; the percentage of hard seed, if present; the calendar month and year the test was completed to determine those percentages; and the words “Below Standard” in not less than eight-point type.

(c) Name and address of the person that labeled the seed, or of the person that sells the seed within this state.

(d) In addition to the information required in subdivisions (a), (b), and (c), on each container of more than one-half pound (227 grams), the label shall include both the lot number or other lot identification and the calendar month and year the germination test was completed.

SEC. 8. Section 52453.5 is added to the Food and Agricultural Code, to read:

52453.5. *Notwithstanding Sections 52452 and 52453, each container of agricultural or vegetable seed that is untreated, uncertified, and nonproprietary that is for sale or sold within this state by a seed microenterprise for sowing purposes shall bear upon it, or have attached to it, in a conspicuous place a plainly written or printed label or tag in English with all of the following information:*

- 1 (a) *The kind and variety of seed.*
- 2 (b) *The name and address of the person who labeled the seed.*
- 3 (c) *The number or other lot identification.*
- 4 (d) *For agricultural seed, each seed component in excess of five*
- 5 *percent of the whole, by weight.*
- 6 (e) *For any seed that germinates less than the germination*
- 7 *standard established by the secretary pursuant to this chapter, the*
- 8 *following information:*
- 9 (1) *The percentage of germination, exclusive of hard seed.*
- 10 (2) *The percentage of hard seed, if present.*
- 11 (3) *The month and year the germination test was completed.*
- 12 (4) *The words "Below Standard" in eight-point type.*
- 13 ~~SEC. 6.~~
- 14 SEC. 9. Section 52486 of the Food and Agricultural Code is
- 15 amended to read:
- 16 52486. Sections 52481, 52482, and 52484 of this article do not
- 17 apply to any of the following:
- 18 (a) Any common carrier in respect to any seed that is transported
- 19 or delivered for transportation in the ordinary course of its business
- 20 as a carrier if the carrier is not engaged in conditioning or
- 21 merchandising seed that is subject to the provisions of this chapter.
- 22 ~~(b) A seed microenterprise that sells only untreated and~~
- 23 ~~uncertified seed.~~
- 24 ~~(c)~~
- 25 (b) Noncommercial seed sharing.